S.B.Civil Writ Petition NO.5301/2004

Smt. Sandhya Bhatnagar

vs

State of Rajasthan & Ors.

DATE OF ORDER : - 4.1.2005

HON'BLE MR. PRAKASH TATIA,J.

Mr. S.P.Sharma, for the petitioner.
Mr.L.R.Upadhayay, Dy.GA, for the respondents.

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Heard learned counsel for the parties.

It is alleged by the petitioner that the petitioner was forced to file the writ petition earlier also, which was S.B.Civil writ petition No.4367/1993 as the petitioner was denied the regular increments and the revised pay scales. The said writ petition of the petitioner was allowed by order of this court dated 23rd May, 2003. The respondents when found nothing wrong, they issued a letter to the petitioner on 18th Nov., 2004 calling upon the petitioner to give explanation as the petitioner was found talking with some other teachers at the time of classes. The petitioner submitted reply to that show cause notice, but no action was taken against the petitioner in pursuance of the Annex.3 dated 18th Nov., 2004. On 27th Nov., 2004, the impugned order Annex.4

was issued by Vikas Adhidari, Panchayat Samiti, Sumerpur transferring the petitioner from the school at Sumerpur to school at Khiwandi. According to learned counsel for the petitioner, the order is without jurisdiction as it has been passed by the Vikas Adhikari of Panchayat Samiti whereas the petitioner is serving in the Elementary Education Department of the State over which the Vikas Adhikari (Development Officer), Panchayat Samiti has no jurisdiction. It is also submitted that the order is stigmatic as it says that to improve the working of the school where the petitioner was serving, she has been tranferred.

The respondent submitted reply to the writ petition and stated that the petitioner has not been transferred, but it is only a working arrangement. The petitioner's new place of posting is not far away from the place where she was working. It is also submitted that the Vikas Adhikari has passed the order as there were complaints against the petitioner.

It is clear from the facts mentioned above itself that the petitioner has been transferred, but the respondents are not accepting that petitioner has been transferred by order dated 27th Nov., 2004 (Annex.5). It is also clear from a bare reading of the Annex.5 that the order has been passed by saying that by transfer of the petitioner, the education standard will be improved. Such reason appears to be a

stigmatic.

In view of the above reasons only, the writ petition deserves to be allowed, hence allowed. The order dated 27th Nov., 2004 (Annex.5) is set aside as the order is stigmatic.

However, the respondent shall be free to pass appropriate lawful order, if any administrative exigency require for passing any order.

(Prakash Tatia), J.

c.p.goyal/-